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Attorneys for Defendants  
MERRITT COLLEGE  
and SHIRLEY MACK

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ELIZABETH SANTOS,

Plaintiff,

vs.

MERRITT COLLEGE, SHIRLEY MACK, an  
individual and DOES 1-10, inclusive,

Defendants.

CASE NO. C 07 5227 EMC

**[PROPOSED] ORDER GRANTING  
DEFENDANTS' MOTION TO  
DISMISS PLAINTIFF'S "REVISED  
SECOND AMENDED  
COMPLAINT"**

Date: May 14, 2008

Time: 10:30 a.m.

Dept: Courtroom C, 15<sup>th</sup> Fl.

Judge: Hon. Edward M. Chen

This matter came on regularly for hearing on Wednesday, May 14, 2008, at 10:30 a.m. in Courtroom C. Alyson Cabrera of Gordon & Rees LLP appeared on behalf of Defendants MERRITT COLLEGE and SHIRLEY MACK and Kjell C. Bomark-Noel and Richard Harper appeared on behalf of Plaintiff ELIZABETH SANTOS.

Having considered the moving, opposition and reply papers, and argument of counsel at the hearing, and good cause appearing, the Court hereby GRANTS Defendants' Motion to Dismiss Plaintiff's "Revised Second Amended Complaint" pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted. Accordingly,

1 the Court hereby DISMISSES WITH PREJUDICE, Plaintiff's: (1) First Cause of Action for  
2 violation of Title VI of the Civil Rights Act of 1964; (2) Second Cause of Action for violation of  
3 the Age Discrimination Act of 1975; (3) Third Cause of Action for violation of California  
4 Government Code section 11135; (4) Fourth Cause of Action for intentional infliction of  
5 emotional distress; (5) Fifth Cause of Action for breach of contract; and (6) Sixth Cause of  
6 Action for negligent misrepresentation.

7 The Court further GRANTS Defendants' Motion to Strike Plaintiff's TAC at page 1, line  
8 27, through page 2, line 1, pursuant to Federal Rule of Civil Procedure 12(f). Plaintiff's  
9 reference to the Unruh Civil Rights Act is immaterial and superfluous, inasmuch as Plaintiff's  
10 TAC contains no cause of action for violation of the Unruh Civil Rights Act, codified at  
11 California Civil Code sections 51 and 51.3, and there are no allegations in her TAC that would  
12 support such a claim. As such, the reference to the Unruh Civil Rights Act, as contained in  
13 Plaintiff's TAC, is stricken in its entirety.

14 IT IS SO ORDERED.

15 Dated:

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17 HON. EDWARD M. CHEN  
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